

# Public-Private Partnership in Land Management: A Learning Strategy for Improving Land Use Change and Transformation in Urban settlements in Tanzania

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## Abstract

Transformation of rural land use ownership into urban influence in Sub-Saharan Africa countries is an apparent phenomenon in urban development debates. This has resulted into discouraging investors with long terms land leaseholds, augmented poverty, unemployment and conflicts in urban settlements development contexts. Similarly, Real Farm estate investors who own elephant land in rural settings found changing their land use from farming into residential and other urban land uses to adhere to policy and legislative framework requirements. This paper documents the processes and intricates the landholder namely Arusha Duluti Coffee Real Farm Estate Company investor in Tanzania encountered when transforming his land into residential and other urban land uses requirements from farm, documents the lessons the case is telling us and the rational of public private partnership in land management. The collaboration mechanism role of public, private and local government authority in land use planning, cadastral survey and subsequently granted right of occupancy to landholders through formal processes are highlighted towards ensuring planned, serviced, secured, liveable and happy city which build hope to her residents. The historical trend of land development and ownership change, change of land use processes adopted, cost and benefits implications to different actors are highlighted. The paper wind up by arguing that land use conflicts and improper policy follow-up and enforcement limits the level of investment and sustainable urban growth and therefore public private partnership in land management and administration is a key factor to reduce conflict which may arise once the areas declared ripe for urban development and for investment in Sub-Saharan Africa cities. The stakeholder inclusiveness based methodology within a realm of public private partnership domain; legislative framework and capital base creation provide the checks and balances that are defining features of good land management and governance in urban settlements towards ensuring sustainable development.

**Keywords:** Public private partnership, land management and administration, Urban Space and Land use Conflicts

## INTRODUCTION

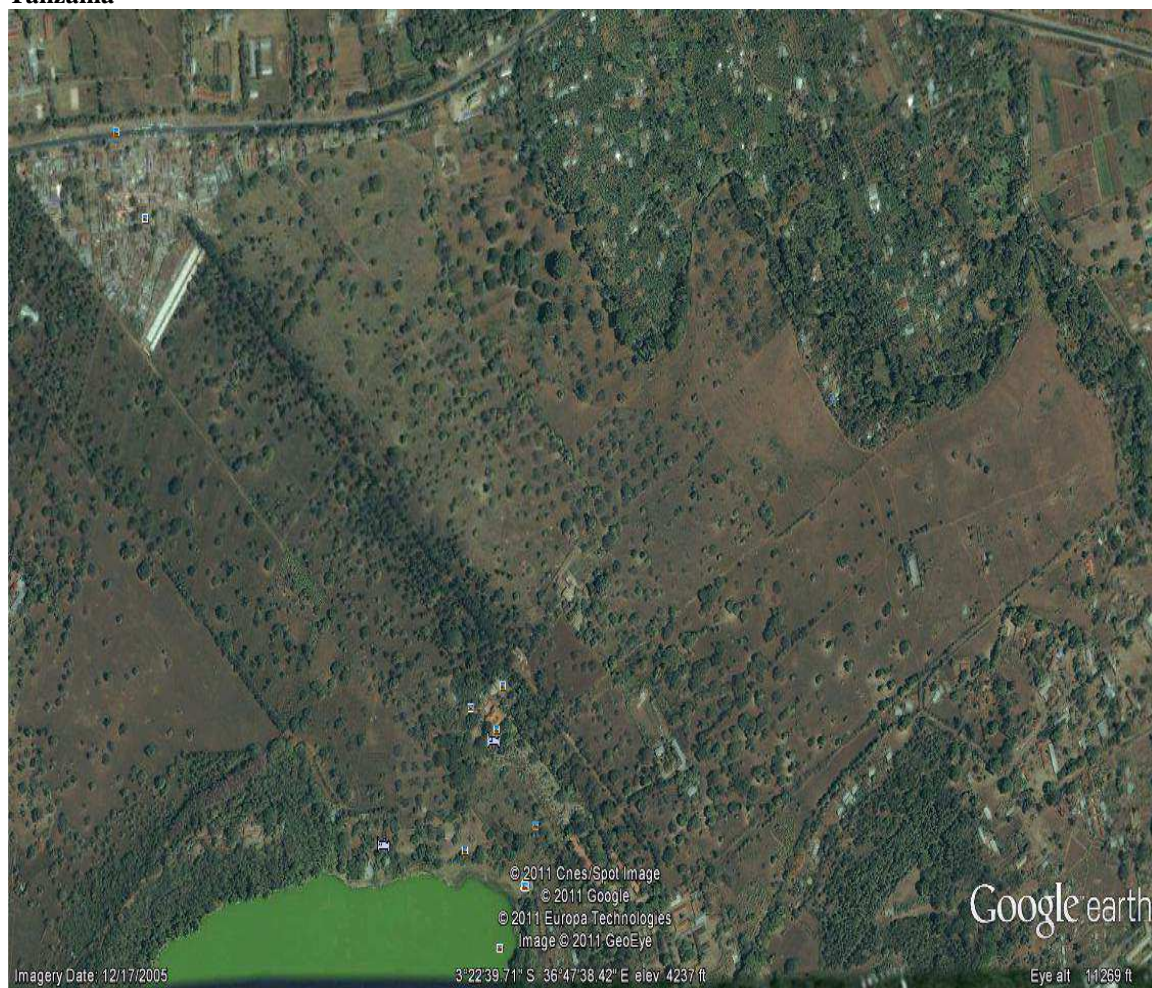
Local Governments in developing countries of Sub-Saharan Africa including Meru District Council in Tanzania have recorded unprecedented rapid rates of urbanization. This has far exceeded their capacity, a situation that has been blamed with inadequacies in enhancing her productivity and city management and equitable growth processes (Mendis, 1998; Thomas, 1998). Likely, they manifests themselves in declining and stagnating economies, demising employment opportunities, uncontrolled expansion (urban sprawl), growth of informal settlements, deterioration in the quality and distribution of basic services, and a decline in the quality of the urban environment, both built and natural, which hinder her equitable growth in urbanization processes with demographic changes (Payne et al, 2009).

In fact, urbanisation process is accompanied with expansion of the city boundary, demographic changes, demand for improved services such as housing, which engulfs rural settlements with different land ownership status change as per urban land legislations and policy requirements. The process of expansion of the city boundaries is resulting into rural settlements' land coming within the influence of urban land development policy framework. Prior preparation of the rural residents on the changes and the impacts which may happen on their land ownership status and modes of land development requirements and change as well as property tax imposition are hardly addressed and therefore conflicts are apparent feature. Real farm estate investors who are investing on land in rural areas with long term title deeds (approximately 99 years in Tanzania context) and other Sub-Saharan Africa cities are found in conflicts with governments and local communities in changing their land use status and ownership. For the government, formal process of land acquisition for public interest is obligatory once land is compulsory acquired to meet the need of urban population including land for housing and other uses. In rural setting under Village Land Act of 1999 in Tanzania, the Village Council can offer or an Individual can own land up to 50 acres, the situation, which under the changes of the rural to urban setting it becomes difficult to own such land, and therefore acquisition under compulsory acquisition as per policy requirement

becomes a demand to meet the need of the public.

In supporting the above, the trend shows that local communities surrounding big farm estates in most African countries found themselves invading these areas for residential and farming without investor's permission as the case of Duluti Coffee Real Farm Estate in Tanzania (Map 1). Particularly, once the land is not used for any activity and found unoccupied, generally surrounding communities tend to invade and use for their own activities including farming as what happened Duluti Company. This increases conflicts often emerge once the landholder denies his/her land for development. These kinds of conflicts have resulted into increasing conflicts among the residents, investor and the government. In some areas people who are destitute found themselves have no place to live and therefore deteriorate living standards and uncontrolled urbanisation emerges due to the need for having cheap place and free of charge where shelter construction is possible. This form of land-ownership is particularly susceptible to poor records. The later arguments are also supported by (Payne:1997) who argues that generally land rights records are only created when public land is alienated for the first time to private ownership. Consequently where the state owns all the land very few records exist and it becomes even more difficult to allocate rights once urban expansion takes place. The transitional economies have also suffered from this problem. Those countries that had extensive private land-ownership prior to nationalization by the former Soviet era countries are better off in terms of records than those who had a small history of private land-ownership (Tiits, 1998). In this situation occupants must rely for their security of tenure largely on local social land tenure rules and good neighborliness and hope that their land will not be allocated by the state to someone else

**Map 1: Private settler Farm: Duluti Coffee Real Estate in Tengeru, Meru District Council:Arusha, Tanzania**



Governments around the world in meeting the above challenges, have formally recognised universal rights to adequate housing and living standards as the way to fight against poverty plight. Lack of access to land, land invasions, fear of eviction are features exemplify a more pervasive exclusion of local communities and investors

from mainstream social, economic and civic opportunities in urban areas. Precarious conditions generate poverty as people have no future in which to invest on land either through housing or commercial. As population keep mounting in Cities, the prospects for our collective sustainable urban development look bleak, particularly once land used for rural agriculture and estates acquired for urban uses during urban expansion. These requires a check and balances of voices of different land developers to sit together and agree on the modalities towards ensuring planned, serviced and secured settlements in their cities. Public private partnership modality is a strategy leant in Tanzania to provide solution in cities land development and with increasing positive impacts to her residents and country as a whole.

Public private partnership and community involvement in urban planning processes including land use planning, cadastral survey, infrastructure provisioning and land registration to ensure planned settlements are some remarkable challenges in ensuring urban land management and administration. The process is vital to enhance urban sustainability as well as ensuring a happy, secured and liveable city where people can live and enjoy their citizenship. However, the Meru case documented in this paper supports Campaign for Secure Tenure complements Un-Habitat's ongoing Campaign on Urban Governance. Both aim to deliver on the commitments made at the 2000 UN Millennium Summit and the 2002 World Summit on Sustainable Development. Both promote a vision of an urban future based on inclusion, social and economic development - a future based on human opportunity and on hope. What does the case show on effectiveness of urban planning processes and approach once rural settlement declared for urban development, acquisition procedures and well as land tenure status for ensuring planned, serviced and secured settlements in cities? This noble question form a basis of argument attempted in this paper for learning with public-private partnership perspectives.

#### **METHODOLOGICAL ISSUES IN ASSESSING THE EVIDENCE**

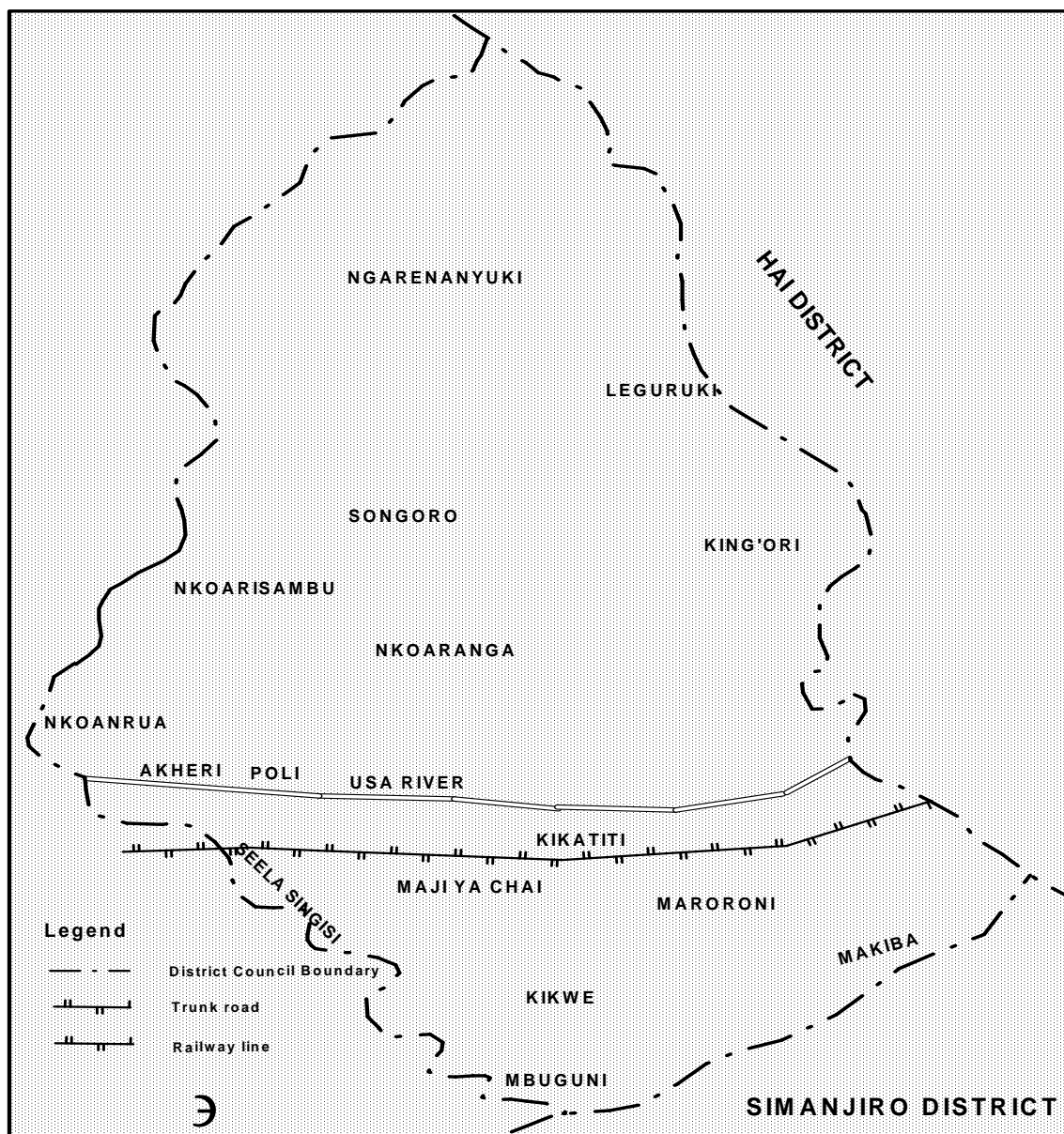
Duluti Coffee Real Farm Estate Company is found Meru District Council in Tanzania. The District Council is among the seven District Councils found in Arusha region. Other Districts include Manyara, Mondulu, Arusha, Babati, Mbulu and Longido. It is endowed with a diversity of cultural and good Meru Scenery Mountain with equatorial forests. The District Council is a result of the subdivision of the have been Arumeru District into two Councils of Meru and Arusha with the Government declaration order No. 353. The District Council started its operation in the financial year 2007/2008 and is a dynamic and fast growing District Council with its own autonomous body of governance.

The District Council (Map 2) has an area of 1,278.2 sq. km and lies between latitude 36.5° C and Longitude 37.5° C. It has a total of 76,000 population in the year 2002 (URT, 2002) and increased to 220,000 by the year 2012 (Population census report, 2012). Total households are 48,768 with an average of 5 people per household. Likely, it is divided into three zones. These include upland, lowland and Middle land. The upland ranges at an altitude of 1000-1800 from the sea level with an average annual rainfall of 500mm. The main agricultural activities include banana, maize, vegetables and sweet potatoes. Likely, animal husbandry in small scale is practiced due to limited land available. The middle zone ranges from 1000-1350 from the mean sea level. The same agricultural crops are practiced. Similarly, zero grazing is a dominant feature in this zone. The lowland zone altitude ranges from 800-1000 at mean sea level with 300mm annual rainfall. This zone is potential for irrigation scheme where different varieties of crops are practiced due to its potentiality in water sources that favours cropping including pad farming. This zone also is potential for animal husbandry.

The original ethnic group of Meru District is Meru tribe. Other ethic groups existing in the District include Waarusha, but due to urbanization process, many people of different ethnicity are found living in the District. The main dominating religions are Muslims and Christians. Inter alia administratively the municipality is divided into three divisions, 17 wards, 69 villages and 275 hamlets with I parliament constituent. The District council has only 17 administrative staff with a deficit of 84 to meet the total of 101 of the total staff required. Bureaucracy in employment release letter and lack of training observed to be some of the remarkable problems facing the District Council towards effective land management and act promptly to the rising land use conflicts.



**MAP 2: MERU DISTRICT COUNCIL**



The increasing population in the District Council presents numerous benefits, tremendous potentials and negative externalities, which requires appropriate intervention in service provisions, settlement development coordination, control and ensure effective land resource management. Paradoxically, it experiences an enormous range of investments by individuals, households, communities and institutions, which requires guidance. However, the future prospects and proposal for building an Export Processing Zone (EPZ) and availability of training and financial institutions, good climate and fertile land, keep to attract people to find land areas to live and invest in Meru District Council. All these development aspects have influenced the spatial growth and development of the town.

In regards to data collection tools and methods, both preliminary field data collection, desk search and on spot observation were methods deployed in data collection. Key informant interviews were carried out to establish the historical evolution of land use conflicts, land development and emerging issues during urban expansion and land acquisition as land use planning elements in urban planning practice to bear fruitful results. A total of 95 stakeholders were interviewed during this study. The urban planning practises, challenges, and voices of different actors and roles are documented. Data collected were analyzed using Statistical Package for Social Science (SPSS) and Map info Software. Throughout the analysis, data were differentiated regarding member's

perceptions, activities, planning institutions arrangement, nature of activities, potentiality and negative impacts in urban planning processes during expansion and land declaration stages which change the land use status, ownership and settlement status institutional setting to achieve sustainable land management in the city.

### **LEGAL PROCEDURE FOR LAND OWNERSHIP AND DECLARATION IN TANZANIA**

According to the Land Act no.4 of 1999 of the United Republic of Tanzania, sect. 19 permits an investor who is non-citizen to have right to use and own the land by investing only and prohibit him/her from selling that land. In the year 2004, the section had been reviewed to allow the non-citizen who owns land in the Republic of Tanzania to have right to own, use, lease, sell and mortgage to financial institutions. This section review enables the investors to expand their business and buy land for Hotels constructions, tourism sector etc. On the other hand, farms estate owners within areas which were rural in nature after urban expansion is prohibited to such use so that can conform to the urban development policy and legislation. For example, ownership of land in urban areas should not exceed 1 acre while in rural areas it exceed the stated conditions.

Once the government want to acquire land for public interest including meeting the expansion challenges, land declaration is made after all compensation schedules have been followed as per policy and legislation requirements in Tanzania. The process of land declaration<sup>5</sup> and zoning<sup>6</sup> are important ingredient in urban land use planning processes that needs to be transparent and inclusiveness. The involvement of actors in planning processes including in decision making, land use preparation, implementation and monitoring ensures sustainable urban development. Otherwise, the non-involvement of these actors lead to difficulties in institutionalising, coordinating and controlling urban land use plans as output of urban planning processes. The practice shows that in most cases landholders once their land transformed to other urban land uses including change from farmland to residential and commercial as per urban planning requirements, compensation is not made as per what the land market offers. In these respects landholders and community protests area common as a means of finding their rights. Likely, it comes difficult towards ensuring monitoring and evaluation of land use plans once one party want to implement the land use plan accordingly after declaration and subsequent implementation needs. Conflict arising from landholders, fragmented types of cadastral survey, prohibitive costs and increased housing densification are some features of ineffective land use planning and implementation processes in many countries, Tanzania inclusive.

#### **Procedure for land use change in urban context: An explanation in Tanzania**

Land use change in Tanzania is guided by Legal and policy frameworks. The land use Act of 1999, Urban Planning Act of 2006 as well as Land Use Planning Act of 2007 provide clear procedure of Land use Planning and process of land use change in urban settings. Landholder in Tanzania, who wants to change his/her land use, has to apply for land use change permit to the Commissioner for land (sect 35, of land Act of 1999). Officialised District Land Officers, in District Councils works on behalf of the Commissioner for Land, and is responsible to ensure equitable land development, offering of title deeds and provide important consideration to commissioner for land in case of land acquisition for public interests and for change of land use. Once settlements declared ripe for urban development, automatically, land owned under customary tenure becomes urban land and even the system change. Likely, an investor can be given 50 acres by the Village Full Council for investing. For example, the ownership should not exceed one acre, which is contrary to rural setting where one has to own land more than one acres and used for agriculture and residential. Land registry and other property owned by residents are registered and tax imposition is common the situation which becomes difficult to people who experienced rural life. For equitable growth, capacity building is necessary to residents to create awareness on the impact of land declaration to majority of residents and adoptability to the condition becomes essential.

### **DULUTI COFFEE FARM ESTATE LIMITED: CASE EXPLANATION, LAND USE CHANGE PROCESS AND CHALLENGES**

Arusha Duluti Coffee farm Estate Company limited is found in Tengeru settlement in Meru District Council in Arusha region as previously explained. Tengeru settlement is a Trade and commercial centre, which provide her services to meet demand of Arusha City Council and Arusha District Council residents. The settlement is found adjacent to both Arusha city and Arusha District Council. It is among the urban settlements declared ripe for development by the Government of United Republic of Tanzania in the year 2005. Before her declaration it had

<sup>5</sup> Refers to announcement statement by the government that should be published in newspapers and on the radio according to land development policy and legislations in place to ensure sustainable urban environment through proper land use planning. In the case of Tanzania, Town and Country Planning Act of 1956 revised in 1961, Land Act of 1999, Land use Planning Act of 2006 and Urban Planning Act of 2006 applies.

<sup>6</sup> This includes demarcation of plots based on the use function, density, planning standards and setting conditions for development according to Country land development policies and legislations (Urban Planning Act of 2007 and Land use Planning Act of 2006 in Tanzania context)

a Village status and land was coordinated and controlled under Village Land Act of 1999 No.5. By being a Village, farming activities was dominated and this evidenced by existence of big coffee farms including Duluti Coffee farm real estate Company.

The Duluti Coffee Real Farm Estate formerly owned by a Belgium landholder who sold it to Duluti Coffee Real Estate Company Limited in 1960s after Tanzania independence. The new owner thereafter applied for ownership of that farm land and was given land leasehold of 99 years. The amount of land given by the Government to the new landholder merit to 154.5 acres for coffee farming. Legally, the landholder had right to use and own that until 2059 since independency of United Republic of Tanzania.

The President of United Republic of Tanzania from his statute power on land ceased the land Leasehold to Duluti Coffee Real Estate Company Limited and therefore principally, the land returns to the government. The major reasons provided by the government for ceasing the ownership includes once the government declared a settlement ripe for development, all village land use are abandoned and becomes urban land with different status and principles of ownership. The government seems to overlap some procedures which are required for land acquisition and declarations including fair compensation if land was to be taken for public use. Principally, the government is a causative of existed conflicts, which could have been avoided and continue encouraging investors in the process of land use change and compulsory acquisition for public interest if adhered to the policy and legal requirements. In fact although land use change and conditions of use were obligatory to be followed as per Urban Land Act of 1999 No. 4 and Urban Land use planning Act of 2006, but legal procedure and necessary requirements could have been followed and this could be a motivation to many investors.

The undermining of indigenous tenure arrangements in Tengeru Village and to the Real estate farm owner have resulted into conflicts, which manifested in the clashes between customary and statutory rights under the umbrella of urban development needs. Under the Land Policy (1995) of United Republic of Tanzania, one may have access to land through either the granted right of occupancy or by customary right of occupancy. Whereas the former is issued by the head of state or his authorised subordinates, under the later system the law deems customary landowners as lawful occupiers (the deemed right of occupancy). However, since colonial times up to the present in Tanzania the courts have undermined the “deemed right of occupancy” under which customary land tenure is based, and upheld the superiority of documentary evidence, title deeds, certificates of occupancy and all the paraphernalia of granted rights of occupancy. Thus, the deemed right of occupancy apparently noticed to be inferior to the right of occupancy, which may discourage land investors to increase their productivity under the umbrella of urban development.

The non adherence to policy requirements, the same year (i.e. 2007) the landholder (Duluti Coffee Farm Real Estate Company Limited) filed the case in the court of law suing the Government for non adherence to policy and legal procedure and for not stating the proper amount of land owned by the company . The Duluti Coffee farm Estate Company win the case in the court of law against the government. Among the factors which led the landholder to win the case includes low compensation of the land when you compare with the real land market value it offers. For example 1 acre in the settlement neither cost 50 millions equivalents to 35,000 USD, the case which was neither nor given to the landholder as per Land Act of 2009 No. 4 of Tanzania. Other factors include the claim that the farm had 1500 acres which found not true and he owns only 154.5 acres. The possession of 1500 acres found to be a fact enough which was used to convince the presidents of United Republic of Tanzania to cease the land for public goods due to increased demand of land. The later cause the landholder to claim that may be he was not the one whose farm ceased and acquired with the government, the situation which was considered by the Court of laws and therefore the landholder win the case against the government.

The landholder principally, after wining the case, he involves in acquiring another title deeds. In this respect he involves in formal processes, where at last he was granted a leaseholds of 66 years. In fact, such lease is allowed in urban area but do not match with the amount of land he holds in the area already declared as planning area ripe for development. This shows poor awareness and enforcement of land laws in view to acquisition, compensation and granting of right of occupancy in urban areas in Tanzania context done by government officials. One may wonder why such granting of occupancy was done despite of land declaration for the area development: This shows existence of corruption symptoms which signifies the role of professional code of ethics and rule of law to be adhered. Remarkably, after declaration, since 2007-2010, this land was not developed. In urban areas in Tanzania and elsewhere, if land is not developed for three years, it means the ownership is ceased and another developer may be given that land. Thus, automatically, officials in the government machinery need to follow policy and regulations to enforce land law development to avoid miserable land conflicts.

#### **What happened after the Landholder winning the Case**

Since the land use and conditions for ownership meant for coffee farming activity, the landholder opted to change the use from coffee farming to residential and commercial. The major reason brought to the local government by the Duluti Coffee Farm Real Estate Company landholder on the need for change of land use from

farming to residential and commercial includes: unfair coffee market in the world market, climate change which affected coffee farming in the area, inadequate water for coffee irrigation and already the farm exist within the urban authority with different access and user rights modalities. In this case, the landholder reported the case to Meru District Council on his intentions to change the use of land. The following procedure was taken on board;

- Landholder through Kabale Real Estate and Land Developers company-A private company reported the case of Land Use Change from Coffee Farm Estate to Residential and Commercial to Meru District Council with clear documentation of the stated reasons for change in December 2010
- The planning and land development department consider the case and present it to the Urban planning committee for consideration in 2010
- The urban planning committee consider the case and forwarded the case to the Full Council for consideration
- The full council did not endorse the case as they want full clarification of land laws requirement of the case and invitation was done to landholder to present the case. The planning and land development department was given this responsibility on the follow-up
- In January 2011, the landholder presented the case in collaboration with the planning and land development department to Full District Council Committee with a clear documentation of strategic plans for improving the farms. The case was discussed, clarification on the law requirements was made and finally, the land use change from farm to residential and commercial was endorsed. This process took a duration of one year which sometimes may be disincentives for a person who want to plan his/her land
- The department responsible for planning and land development was given task by the full council to come up with proposal how they can involves in land use planning for the area through public-private partnership and subsequently ensure clear and fair compensation and benefits of both parties
- Land use planning, surveying, infrastructure provision and land registration follows after the landholder request approval

#### **Agreements reached between landholder and Local Government.**

After the request has been endorsed by the Meru District Full Council, the proposal for both parties to involve in land use planning and subsequently enabling owners to own that land was drawn. Among key areas agreed is for landholder to pay all cost related with land use planning, cadastral survey and land registration. Likely, the landholder has to provide infrastructure services including water, electricity and roads. In addition, the landholder had to pay all cost related to mapping and digitisation. The table 1 involves cost in the planning area (Table 1).

**Table 1: Cost implication in the planning process**

Urban Planning Processes	Function Description	Results Obtained	Cost (USD)
Land use planning	Plan initiation Meetings Land use plan preparation and agreement meetings with Local Authority Follow-up to the Ministry of Land and Human Settlement for approval Mapping and digitization	Land use plan	25,000
Cadastral Survey	Field survey Beacon preparation and installation Office work Production of survey maps and approval processes Feedback meeting	Cadastral Plan	35,000
Infrastructure provision	Service provision including water, roads and electricity	water, roads and electricity in place	120,000
Land Registration	Land registry preparation and title deed preparation	Ongoing	20,000
		<b>Total Cost</b>	<b>200,000</b>

The role of the Meru District Council in this planning process was to provide experts, ensuring the process is formally institutionalised and implemented as per country land development policies and legislations. Other

function include enter into contract agreement on behalf of the government with the landholder as well as work with private sector in zoning the area and facility allocations. Likely, the local authority involves in advertising the plots for sale after have been planed and serviced and collected sales, which later were used as agreed among the parties. The total cost of the process amounted to 200,000 USD, which was contributed by the Landholder in the fate that the return has to reimburse the cost incurred, which was made true.

#### **Benefit of public-private partnership earmarked by the Case Study**

Meru District Council benefited in different ways by accepting the implementation of this land development project and the modalities adopted in its implementation i.e public-private partnership in land management. It was noted that a total of 300 low and medium plots we designed and were sold by December 2012. A total of 3 Billion Tanzania Shillings returns after all the cost deduction to the landholder noticed. However, it was agrred in the contract that 10% of the total amount or returns paid to the District Council Authority, which amount to 300 million. This amount meant for one year project period. Until June, 2013 all people who were allocated land had paid for their plots. One plot metre square was sold 24,000 Tshs equivalent to 15 USD. The cost of this involves all process including land use planning, cadastral survey, infrastructure provision and granted right of occupancy.

Remarkably, Until June, 2013, the new landholder bough the land planned and serviced obligations in collaboration with the District Councils are undergoing land registration. Follow-ups have been made to the Ministry Responsible for Lands and Human Settlement Development and the results still unfruitful thirty round trips has been made and had experienced high cost. It takes costs in terms of time and finance, which becomes disincentive to landholders who want to ensure their security to land ownership in urban settlements as well as cost to local government who finance expertise for follow-up. Sharing of cost and benefits in the planning process is a vehicle towards land use conflict reduction and improving unserved and unplanned settlements as the case indicates. Community involved secured short term employment while new landholders bought land are secured and information are shared to increase the level of ownership of the capital invested or proposed on their land. The linkages of planning, urban management and public private partnership in urban planning theory and practise forms an alarming element to create habitable, safe, secured and happy city, where people of different level can be accommodated and their livelihoods sustained within urbanisation contexts.

In addition, after the completion of the project, the local government will earn a total of 40 Million Tsh as a source of income to the local authority. This is an important source of income which other local governments may enter in partnership with landholder so that they increase their returns rather than depending solely on government grant, which are decreasing yearly. The landholder also provided free of charge a total of four acres of land for extension of Tengeru Market as well as 1.2 acre as an open space for football pitch construction in the area. This land provided had a total value of 525 Million Tanzanian Shillings. All these show the importance of inclusion of landholders and flexibility of the local government in planning and ensure land use planning and planned settlements in their area of jurisdiction. Other benefits include employment creation especially during land use planning, cadastral survey where a total of 20 youth with 18-35 years of age were employed. However, during construction phase more people will be employed and therefore increasing their income levels in their families. Furthermore, it was also agreed that to every plot which will be sold, 1% premium will be paid in which a total of 60 Millions Tshs. accrued from the sale of plots. These benefits signify the role of public-private partnership in land management.

#### **What experience the Case is telling us?**

Regarding urban expansion, land use transformation, land declaration procedures and processes, land acquisition and the whole urban planning processes for improved planned, serviced and secured settlement to meet demands for both high and low income groups, a number of lessons have been learned in various areas as described hereunder:

- ❖ In view to role of central and local governments, the Governments may opt to follow land acquisition and have clear research data on land inventory before decision is made as per land Act of 1999 requirements in Tanzania. Ethics and code of conduct to government officials is of prime importance to be insisted in the planning processes. Public-private sector partnership approaches in relation to land acquisition, delivery, and with a fair amount of compensation is rational;
- ❖ Centralized systems for planning, conflict management and land administration are not delivering secure tenureor serviced land to the majority of urban people in Tanzania, which may be the same in other developing countries of the same context. These functions should be decentralized, together with the powers and resources that will enable them to be undertaken.
- ❖ Regulatory frameworks designed for the middle class and the commercial sector are excluding a majority of urban dwellers including real estate owners assuming negatively possession of their land despite of having long title deeds. Adaptation of regulatory frameworks is a slow process, often with no apparent outcome. Resources and pressure need to be brought to bear in these situations;



- ❖ Weak civil/public services will also typically feature complex and contradictory legislation, often left over from the colonial period. This acts as a major hindrance to formal land delivery and an encouragement to informal land delivery. Regulatory frameworks need to be reviewed and simplified although it may not always be easy as it requires resources and partnership agreement among parties for effective implementation.

## **WAYFOWARDS AND CONCLUDING REMARKS**

### **WAY FOWARDS**

#### **Payment of Fair and Appropriate Compensation**

The case shows that in the course of urban expansion, land compensation was not made as per market value in the city. The landholder knew that if the council acquired such land, no low compensation would be payable as the land had been declared ripe for development. The declaration procedure for the area on excluded from the planning process. The landholder was informed about the plan after the decisions had been made, not to listen to what he would say, but to pave the way for implementation, especially when resistance from them was anticipated or experienced. The involvement of the landholder is not the matter of the planner discretion but of the former's legal and constitutional rights. Section 29 and 30 of the Town and Country Planning Ordinance revised in 1961, which provide for public examination of the schemes before they are approved by the Minister responsible for Human Settlements Development. Section 24 of the constitution of the United Republic of Tanzania requires also being involved in matters that affect their lives. This implies that the government can opt to pay fair compensation for any properties to encourage big investors to provide their land for other uses once the area declared for urban expansion, otherwise the situation may demoralize by farmers interested into farm estate development in the country.

#### **Need for capacity building**

Land administration should include the creation of a land information system, to be shared by the community and the local authority. The twin objective is to enhance individuals security of tenure and to collect information for the purposes of planning and community servicing for present and future land development coordination and control. Infrastructure consolidation in the planning phase should be actively installed networks established.

Apart from the question of land values and inadequate compensation, a lack of direct communication between the planners and the landholder concerned contributed to distortions in the intentions of the government as perceived by the people and other landholders. Direct communication and awareness creation on the impact of land declaration before any step in implementation to take place. It would have provided the planners and the landowners with opportunity to get each other's message directly from the 'horses' mouth and to respond to questions arising out of that encounter for effective land development project implementation.

#### **The Need for community involvement**

All formal and informal forms of land conflict resolution should be strengthened in order to achieve equity and equality under the law in line with traditional rules). Many disputes are directly attributable to the exclusion of local users and communities and ignorance of autochthonous institutions. The economic benefits of averted or resolved resource conflicts are difficult to estimate but the benefits are enormous for investment incentives, planning security, social peace and political stability. Existing models and norms for solving land tenure conflicts are a mirror image of the prevalent tenure problems and future urban development form in the planning processes. In this case, committees for conflict resolution and an ombudsman can act as recognized arbitrators for settling disputes primarily at the important local level. To acknowledge autochthonous instruments for conflict arbitration in state law and bridge the gap between the two legal spheres is a challenge for the future. Attempts often supported by development agencies and NGOS, to codify customary law are well meant, but they can culminate in rigid conventions at the expense of the adaptability typical of autochthonous law.

#### **Strengthen the Relationship Between the Policy Makers and other organs**

It can be concluded that planning legislation is more effective in urban areas than rural areas. Although various laws and regulations have given planning functions to different bodies, there are some criss-crossings hence sometimes conflicting and bringing chaos between these planning bodies. This contributes to the reduction of the effectiveness of any single agency. This is to say the line of authority in controlling certain functions may not be properly defined which leads to the need of consulting as many bodies as possible. In view of these criss-crossings, there is a need to promote integration or strengthen the relationship between policy makers, notably the Ministry of Lands and Ministry of Agriculture in revision and amendments of these planning legislations in order to alleviate chaotic criss-crossings or overlaps and hence harmonization. This would help the urban development to incorporate landholder in urban planning processes.

Planners' insensitivity to land-use rights and to the economic and cultural meaning of land to the holders of land rights, the exclusion of other stakeholders in the planning process in disregard of the law and a model of planning based exclusively on 'scientific knowledge' and technical rationality are the main factors which underlie the conflicts, protests and the failure of planning to regulate land use change as intended. The exclusion of the people from the planning process and disregard of the law were the main strategies used by those entrusted with powers of planning and land management to ensure the domination of their ideas and values and to camouflage their interest being pursued in the planning system at the expense of the views, values and interests of the people in land.

### CONCLUDING REMARKS

The empirical findings of this study have illustrated that land development is not taking place not only in rural areas but also in urban areas where development potentials persists. As customary land tenure is changed to statutory land tenure, there arise conflicts. Public Institutions and other actors have proved failure to monitor the proper way of changing land from customary to statutory system. More significantly, there is still to come to terms with the on-going socio-economic and political transformation including liberalization, democratization and privatisation policies which seems to have catalytic effect on informal land development. In fact, marginalized government cannot but widely open the doors for private and popular sectors to take over and play a greater role in sustainable land development. The implications are, far-reaching for once an area is irregularly built, it is both difficult and expensive to retrospectively remedy deficiencies in the provision of public services and in the distribution of land-uses.

Identification of the faults made by local authority in course of acquiring land provide basis to create sustainable land development methods. In totality the negative aspects identified by the study are the challenges to policy makers and decision makers and technocrats, as they require permanent quick solution. Positive aspects are also calling for proper and appropriate planning and management approaches to avoid conflicts and hence having good land development. This study is considered of much use to all stakeholders responsible for managing the growth of townships to acquire good urban form.

The major challenges facing the District Council and central government at present and in the future are therefore not only to find responsiveness intervention measures in the on-going urban land development process and requirements but also to forge functional linkages between the council authority and the administrative structures at the lower levels for sustainable urban land development during urban expansion. The present administrative set-up and legislation do neither provide for meaningful decentralised operations nor empower the local community leaders to deal with issues which directly affect land subdivision, declarations, registering of their property transfers and rights during urban expansion as the results land use conflicts is at an increase in Tanzania and elsewhere with the same context. The paper wind up by arguing that land use conflicts and improper policy follow-up and enforcement limits the level of investment and sustainable urban growth and therefore public private partnership in land management and administration is a key factor to reduce conflict which may arise once the areas declared ripe for urban development and for investment in Sub-Saharan Africa cities. The stakeholder inclusiveness based methodology within a realm of public private partnership domain; legislative framework and capital base creation provide the checks and balances that are defining features of good land management and governance in urban settlements towards ensuring sustainable development.

### REFERENCES

- Farvacque, C. and P.McAuslan (1992). Reforming Urban Land Policies and Institutions in Developing Countries, Urban Management Program, Urban Management and Land, The World Bank
- Payne, G. Rakodi, C and Durand-Lasserve, A. (2009) "The limits of land titling and home ownership", *Environment and Urbanization*, 21, 2,443-62
- Mendis, W. (1998) Improving Urban Land Management in Sri Lanka, in J.H.Ansari and N. von Einsiedel (eds.) *Urban Land Management Improving Policies and Practices in Developing Countries of Asia*, Urban Management Program, United Nations Center for Human Settlements, Oxford & IBH, New Delhi.
- Payne, G. (1997). *Urban Land Tenure and Property Rights in Developing Countries A Review*, IT Publications/ODA.
- Thomas, J. (1998). Non-polluting Land Use and Sustainable Development on Rural Regions –Support through Land Regulation and Village Renewal, in *Proceedings of the XXI International Congress: Developing the Profession in a Developing World*, 19-25th July, 1998, Brighton, United Kingdom.
- Tiits, T. (1998). Property Rights in Estonia During Transition, *Proceedings of the XXI International Congress: Developing the Profession in a Developing World*, 19-25th July, 1998, Brighton, United Kingdom.

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